

THE SUPREME COURT OF THE STATE OF ALASKA

SCOTT A. KOHLHAAS, THE ALASKAN
INDEPENDENCE PARTY, ROBERT M.
BIRD, and KENNETH P. JACOBUS,

Appellants,

vs.

STATE OF ALASKA; STATE OF
ALASKA; DIVISION OF ELECTIONS;
LIEUTENANT GOVERNOR KEVIN
MEYER, in his official capacity as Supervisor
of Elections; and GAIL FENUMIAI, in her
official capacity of Director of the Division of
Elections; and ALASKANS FOR BETTER
ELECTIONS, INC

Appellees.

Case No. S- 18210

Case No. 3AN-20-09532 CI

NOTICE OF ORAL ARGUMENT REFERENCE

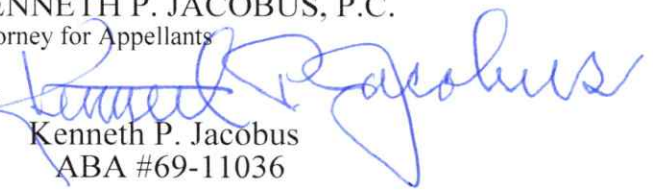
The appellants give notice that, at the oral argument on this appeal, they intend to refer to the actual observations of Professor Chemerinsky regarding the holding of this Court in Meyer v. Alaskans for Better Elections, 465 P.3d 477 (Alaska 2020) , as set forth in his Alaska Appellate Law Update dated September 13, 2021, (Exhibit A) as follows:

“initiative complied with the Alaska Constitution’s one-subject rule, even if the initiative could be split into separate measures, where all substantive provisions fell under the same subject matter of elections, sought to institute election reform process, and changed single statutory title.”

This reference relates to Footnote 2 at Page 2 of the Reply Brief of Appellants. It is appropriate to provide this reference to this Court and the parties in advance of oral argument.

DATED this 5th day of January, 2021.

KENNETH P. JACOBUS, P.C.
Attorney for Appellants

By 
Kenneth P. Jacobus
ABA #69-11036

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of January, 2022, copies of this Notice were emailed to:

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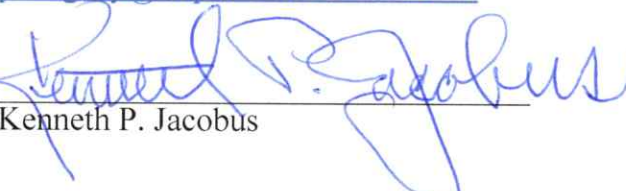
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2021 Alaska Bar Association Virtual Convention

Alaska Appellate Law Update

Monday, September 13, 2021 | 1:30 - 3:00 p.m.

Presented by:

*Dean Erwin Chemerinsky, University of California Berkeley
Law School*

CLE# 2021-700

1.0 General CLE Credits

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Alaska Appellate Law Update



Dean Erwin Chemerinsky

Erwin Chemerinsky became the 13th Dean of Berkeley Law on July 1, 2017, when he joined the faculty as the Jesse H. Choper Distinguished Professor of Law. Prior to assuming this position, from 2008-2017, he was the founding Dean and Distinguished Professor of Law, and Raymond Pryke Professor of First Amendment Law, at University of California, Irvine School of Law, with a joint appointment in Political Science.

Alaska Constitutional Law Cases: 2020 and 2021

Alaska Conference
September 13, 2021

Erwin Chemerinsky
Dean and Jesse H. Choper Distinguished Professor of Law
University of California, Berkeley School of Law

I. Elections

Meyer v. Alaskans for Better Elections, 465 P.3d 477 (2020). Ballot initiative instituting three substantive changes to Alaska's election laws, replacing party primary system with open, nonpartisan primary, establishing ranked-choice voting in general election, and mandating new disclosure and disclaimer requirements to existing campaign finance laws, embraced single subject of election reform and shared nexus of election administration, and, thus, initiative complied with Alaska Constitution's one-subject rule, even if initiative could be split into separate measures, where all substantive provisions fell under same subject matter of elections, sought to institute election reform process, and changed single statutory title.

State v. Recall Dunleavy, 491 P.3d 343 (2021). Recall committee brought action to challenge the decision of the director of the Alaska Division of Elections not to certify the committee's application seeking to recall the governor. Allegation that the Governor "violated Alaska law by refusing to appoint a judge" to a specific court location within the time prescribed by statute made a legally sufficient showing of lack of fitness, incompetence, or neglect of duty. Allegation that the Governor violated Alaska law and the Alaska Constitution by misusing state funds for partisan purposes alleged unlawful conduct that would in fact be unlawful and thus made a prima facie showing of at least one statutorily prescribed ground for recall. As a matter of first impression, separation of powers doctrine may be violated by a governor's use of the veto power with the intent of pressuring the courts to rule in a particular way. Allegation that the Governor violated the separation of powers doctrine "by improperly using the line-item veto to attack the judiciary and the rule of law" made a prima facie showing of lack of fitness;

State v. Galvin, 491 P.3d 325 (2021). Democratic party candidate brought action seeking a preliminary injunction to stop Division of Elections from sending out already-printed ballots for general election, based on allegation that Division's ballot design, by omitting her nonpartisan voter registration, violated both a statutory directive and candidate's state constitutional right to free political association. Candidate failed to show a clear probability of success on the merits of her claim alleging that Division's omission of her voter registration information, violated her constitutional right to associate with voters who might not normally have voted for a Democratic Party candidate, and thus was not entitled to preliminary injunctive relief based on such alleged constitutional violation. Candidate failed to show a clear probability of success on the merits of her claim alleging that Division's omission of her voter registration information, violated her constitutional right to be free from compelled political association, and thus was not entitled to preliminary injunctive relief based on such alleged constitutional violation. Even if candidate had demonstrated a clear probability of success on the merits of her claim that Division violated a